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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,348	12/15/2000	Raymond Anthony Joao	RJ171	8508

7590

03/21/2006

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EXAMINER

GILLIGAN, CHRISTOPHER L

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/737,348

Applicant(s)

JOAO, RAYMOND ANTHONY

Examiner

Luke Gilligan

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) 37-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election without traverse of claims 21-36 in the reply filed on 5/25/05 is acknowledged. Now, claims 21-40 are pending with claims 37-40 withdrawn from further consideration, being directed to a non-elected invention.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 21-22, 24, 26-27, and 29-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Boyer et al., U.S. Patent No. 6,208,973.

4. As per claim 21, Boyer teaches an apparatus, comprising: at least one of an input device for inputting, information regarding an individual and a receiver for automatically receiving information regarding an individual, wherein the information regarding an individual contains information regarding at least one of a diagnosis, a treatment associated with a diagnosis, and a procedure associated with a diagnosis (see column 13, lines 18-24); a processing device, wherein the processing device processes the information regarding an individual and generates an insurance claim (see column 13, lines 25-30); and a transmitter for automatically transmitting the insurance claim to a computer or a communication device associated with a healthcare insurer or a healthcare payer (see column 14, lines 4-10).

Art Unit: 3626

5. As per claim 22, Boyer teaches the apparatus of claim 21 as described above. Boyer further teaches the processing device processes information regarding a symptom or an examination finding regarding the individual, and further wherein the processing device generates a diagnostic report containing information regarding a diagnosis or a list of possible diagnoses (see column 13, lines 42-49).
6. As per claim 24, Boyer teaches the apparatus of claim 22 as described above. Boyer further teaches the processing device generates a treatment report containing information regarding a treatment for the diagnosis or each diagnosis in the list of possible diagnoses (see column 13, lines 42-49).
7. As per claim 26, Boyer teaches the apparatus of claim 21 as described above. Boyer further teaches the processing device processes information regarding the at least one of a diagnosis, a treatment associated with a diagnosis, and a procedure associated with a diagnosis, and updates a healthcare record or file associated with the individual (see column 8, lines 56-67).
8. As per claim 27, Boyer teaches the apparatus of claim 22 as described above. Boyer further teaches the diagnostic report contains information regarding at least one of a misdiagnosis, a treatment success, and a treatment failure (see column 8, lines 56-67, the Examiner considers information regarding past patient treatments, as disclosed by Boyer, to encompass at least information regarding a treatment success).
9. As per claim 29, Boyer teaches the apparatus of claim 21 as described above. Boyer further teaches the processing device processes information regarding at least one of a treatment to be administered to the individual and a procedure to be performed on the individual, and further wherein the processing device determines whether the at least one of a treatment to be administered to the individual and a procedure to be performed on the individual

Art Unit: 3626

is correct or incorrect (see column 13, lines 42-49, the Examiner considers the degree to which a treatment is covered under a patient's profile to be an indication of whether the treatment is correct or incorrect), wherein the processing device generates a treatment response message containing information regarding whether the at least one of a treatment to be administered to the individual and a procedure to be performed on the individual is correct or incorrect, wherein the apparatus transmits the treatment response message to at least one of a computer and a communication device associated with a healthcare provider or healthcare facility (see column 13, lines 42-49).

10. As per claim 30, Boyer teaches the apparatus of claim 29 as described above. Boyer further teaches the treatment response message contains information regarding at least one of a treatment, a procedure, treatment instructions, procedure instructions, treatment steps, and procedure steps (see column 13, lines 42-49).

11. As per claim 31, Boyer teaches the apparatus of claim 21 as described above. Boyer further teaches the insurance claim contains information obtained with at least one of the listed devices (see Figure 6, it is noted that various items, such as "COLLECT VENOUS BLOOD," RHYTH ECG, TRACE," etc. require such devices).

12. As per claim 32, Boyer teaches the apparatus of claim 21 as described above. Boyer further teaches the information regarding at least one of a diagnosis, a treatment associated with a diagnosis, and a procedure associated with a diagnosis, is transmitted to the processing device on or over at least one of the Internet and the World Wide Web (see column 12, lines 49-56).

13. As per claim 33, Boyer teaches the apparatus of claim 21 as described above. Boyer further teaches a database, wherein the database contains healthcare records or medical histories associated with a plurality of individuals (see column 8, lines 56-67).

Art Unit: 3626

14. As per claim 34, Boyer teaches the apparatus of claim 21 as described above, wherein the processing device processes information for scheduling an appointment with a healthcare provider (see column 12, lines 6-19).

15. As per claim 35, Boyer teaches the apparatus of claim 21 as described above. Boyer further teaches the apparatus detects an occurrence of an event for which a healthcare provider is to be notified, wherein the processing device generates a notification message, and further wherein the apparatus transmits the notification message to a computer or a communication device associated with the healthcare provider in real-time (see column 13, lines 18-28, the healthcare provider is notified of the patient's coverage profile).

16. As per claim 36, Boyer teaches the apparatus of claim 21 as described above. Boyer further teaches the apparatus detects an occurrence of an event for which a healthcare insurer or a healthcare payer is to be notified, wherein the processing device generates a notification message, and further wherein the apparatus transmits the notification message to a computer or a communication device associated with the healthcare insurer or the healthcare payer in real-time (see column 13, lines 18-28, the healthcare payer is notified of the preliminary diagnosis).

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer et al., U.S. Patent No. 6,208,973 in view of Rosenfeld et al., U.S. Patent No. 6,804,656.

Art Unit: 3626

19. As per claim 23, Boyer teaches the apparatus of claim 22 as described above. Boyer does not explicitly teach the diagnostic report contains information regarding at least one of a probability of occurrence and statistical information regarding the diagnosis or each diagnosis in the list of possible diagnoses. However, Rosenfeld teaches an apparatus that derives a probability of occurrence with respect to possible diagnoses (see column 43, lines 11-27). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate such a feature into the apparatus of Boyer. One of ordinary skill in the art would have been motivated to incorporate such a feature for the purpose of providing a high level of standardized care (see column 4, lines 28-29 or Rosenfeld).

20. As per claim 25, Boyer teaches the apparatus of claim 24 as described above. Boyer does not explicitly teach generating a treatment report in conjunction with information regarding a drug interaction and a treatment interaction. However, Rosenfeld teaches generating a treatment report in conjunction with information regarding a drug interaction and a treatment interaction (see column 23, line 57 – column 24, line 11). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate such a feature into the apparatus of Boyer. One of ordinary skill in the art would have been motivated to incorporate such a feature for the purpose of reducing the occurrence of adverse events (see column 4, lines 26-27 of Rosenfeld).

21. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer et al., U.S. Patent No. 6,208,973 in view of Sun et al., U.S. Patent No. 6,273,856.

22. As per claim 28, Boyer teaches the apparatus of claim 24 as described above. Boyer does not explicitly teach the treatment report contains information regarding at least one of an herbal remedy or treatment, a self-healing remedy or treatment, and an exercise remedy or

Art Unit: 3626

treatment. However, Sun teaches a treatment report containing at least an exercise remedy or treatment (see column 6, lines 23-33). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate such a feature into the apparatus of Boyer. One of ordinary skill in the art would have been motivated to incorporate such a feature for the purpose of providing enhanced care to patients with pacemakers (see column 1, lines 48-53 of Sun).

Response to Arguments

23. In the remarks filed 2/14/05, Applicant argues in substance that the applied prior art fails to teach limitations of the newly added claims. These arguments have been fully considered but are now moot in view of the new grounds of rejection detailed above.

Conclusion

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke Gilligan whose telephone number is (571) 272-6770. The examiner can normally be reached on Monday-Friday 8am-5:30pm.

25. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

26. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3626

3/20/06


C. LUKE GILLIGAN
PATENT EXAMINER